

**PLANNING BOARD**  
Meeting Minutes  
Thursday, December 12, 2019  
Judge Welsh Room  
6:30 P.M.

**Members Present:** Jason Potter, Brandon Quesnell, Paul Graves, John Peters-Campbell, Ross Zachs, and Jeff Mulliken.

**Members Absent:** None.

**Staff:** Amy Kwesell (Town Counsel), Gloria McPherson (Planning Board consultant) and Ellen C. Battaglini (Permit Coordinator).

Jason Potter called the Planning Board Public Hearing to order at 6:30 P.M.

1. **Public Comments:** None.

2. **Public Hearings:**

**PLN 20-14** (*continued from the meeting of November 14<sup>th</sup>*)

Application by **Edward Roach**, on behalf of **Meili West, LLC**, requesting Site Plan Review by Special Permit pursuant to Article 4, Section 4015, a. (1), Site Plan Review by Special Permit, of the Zoning By-Laws to construct a three-story, multi-family development that will result in three or more residential units on the property located at **30 Shank Painter Road** with waivers from Article 4, Sections 4035, Review Criteria, e, 4053, Commercial Design Standards, 4120, Density Schedule, 4140, Lot Coverage, 4150, Green Area, and 4600, Street Trees.

**PLN 20-15** (*continued from the meeting of November 14<sup>th</sup>*)

Application by **Edward Roach**, on behalf of **Meili West, LLC**, seeking a Special Permit pursuant to Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law, to develop 13 condominium units, 4 of which will be affordable, on the property located at **30 Shank Painter Road**. The Board heard the two cases for the property together. Jason Potter, Brandon Quesnell, Paul Graves, John Peters-Campbell, and Ross Zachs sat on both cases.

**Presentation:** Attorney Christopher J. Snow and Edward Roach appeared to present the application. Attorney Snow reviewed the proposal, which is subject to the Site Plan Review by Special Permit and the Inclusionary and Incentive By-Law and will include the creation of 4 affordable dwelling units. The project also includes the creation of 9 market units, for a total of 13 units. The applicant is requesting waivers from various sections of Article 4, Section 4015. He argued that the benefits of the project will outweigh any hazards to the neighborhood or Town. The project will advance the goals and objectives of the Local Comprehensive Plan as well as the need for affordable housing. He reviewed the major features of the site plan of interest to the Board. He said that will be no commercial elements in the existing building, which will be demolished and rebuilt in an expanded footprint, and be located closer to Shank Painter Road in order to create the number of units and the parking spaces required. The parking spaces will be set up and situated such that there will be minimal traffic congestion or impact on Browne Street and none on Shank Painter Road. There will be 4 fewer spaces than what is required for the number of units created, however there is public parking available right

across the street. The lot coverage of 61% will be increased to help accommodate the proposed number of units and a waiver from conformity with this requirement has been requested.

**Public Comment:** Doug Dolezal and David Levangie spoke in opposition to the project. There were 25 letters in opposition to the application.

**Board Discussion:** Mr. Potter said he would propose topics for the Board to discuss or ask questions of the applicant. One of those topics is the intensity of the development, including the lot coverage, the height of the proposed building, and number of units. It was noted that the lot coverage given by the applicant looks larger than 61% and appears excessive if observed from above and on the planting plan. Other Board members suggested that the proposed building was too big for the site and that the building and site plans show dwelling units of simple design with no amenities for owners and no open space for unit owners or neighbors. In addition it was the opinion of the Board that the building is placed too close to Shank Painter Road. Other buildings in the neighborhood maintain buffers, some with landscaping, from the street. The project proposes 11 parking spaces. The Board briefly discussed the parking situation. Mr. Potter suggested researching the Americans with Disabilities Act and Federal Housing Administration compliance requirements for the width of the primary entrance and other relevant elements of the project. Also noted were inconsistencies regarding how many bike racks are being proposed and their locations. Mr. Roach was asked about the height and the need for the rooftop deck and the elevator shaft to access it. He said that the roof deck will be recessed into the building and answered questions regarding the design of the roof deck and the elevator shaft. The Board had concerns about the mansard roof design and the fact that the roof design doesn't mimic a classic mansard roof structure. Ms. McPherson reviewed several mansard roof designs in Town and explained the differences between them and the proposed roof. Attorney Snow said that the applicant is providing more than double the threshold of affordable units and is allowed under the By-Law to take advantage of waivers contained in that By-Law and the design of the project and the parking area was in consultation and negotiation with the Town staff. The Board discussed their concerns about the design with Mr. Roach. Mr. Potter noted that the Board had expressed concerns about the 'bulk' of the building at a previous work session concerning the project, nevertheless Mr. Roach did not change the design to mitigate the large mass of the building. The Board was concerned about disruption to police and fire services abutting the property during the construction phase of the project and where materials and equipment would be staged on the property and requested that the applicant submit material to address those issues. In addition, how is stormwater runoff going to be controlled. A suggestion that a soil sample of the environment be taken in order to confirm that the soil will be conducive with the proposed stormwater runoff plan. It was noted that the trash area looked small and the applicant should make sure that it is large enough to service the occupants of the building, suggested that the parking area be screened and that bike racks should either be of the inverted u or post and ring variety.

The Board continued the hearing of both cases to the January 23<sup>rd</sup> Public Hearing at 6:30 P.M.

***There was a motion by Jason Potter to continue PLN 20-14 and PLN 20-15 to the Public Hearing of January 23, 2020 at 6:30 P.M. Paul Graves seconded. VOTE: 5-0-0.***

**PLN 20-19** (*request to continue to the meeting of January 9<sup>th</sup>*)

Application by **Ted Smith**, on behalf of **Mitchell Klein**, seeking Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1), of the Zoning By-Laws to move one bedroom from the main structure to another structure on the site

and to create a new dwelling unit in the main structure, resulting in three or more dwelling units, on the property located at **26 Bradford Street**. There was a request by the applicant to continue PLN 20-19 to the Public Hearing of January 9, 2020 at 6:30 P.M. ***There was a motion by Brandon Quesnell to continue PLN 20-19 to the Public Hearing of January 9, 2020 at 6:30 P.M. Paul Graves seconded. VOTE: 5-0-0.***

**PLN 20-20** (*request to continue to the meeting of January 9<sup>th</sup>*)

Application by **Ted Smith**, on behalf of **Mitchell Klein**, seeking Site Plan Review pursuant to Article 2, Section 2320 (A), High Elevation Protection District (A), of the Zoning By-Laws to move one bedroom from the main structure to another structure on the site and create a new dwelling unit in the main structure on the property located at **26 Bradford Street**. There was a request by the applicant to continue PLN 20-20 to the Public Hearing of January 9, 2020 at 6:30 P.M. ***There was a motion by Brandon Quesnell to continue PLN 20-20 to the Public Hearing of January 9, 2020 at 6:30 P.M. John Peters-Campbell seconded. VOTE: 5-0-0.***

**PLN 20-21**

Application by **John DeSouza** seeking Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1), of the Zoning By-Laws to add a dwelling unit on the site, resulting in three or more dwelling units at **22 Conwell Street, UD**. Jason Potter, Brandon Quesnell, Paul Graves, John Peters-Campbell, and Ross Zachs sat on the case.

**Presentation:** John DeSouza appeared to present the application. He reviewed the request to create a fourth dwelling unit, which had already sought and received site plan approval from the Board in March of 2007. This structure will be a single-family dwelling, the second principal structure on the site, and will be 15% smaller, one story lower, than that proposed in 2007. It will be a Cape style design on a full foundation. Dark sky compliant exterior fixtures will be installed on the exterior fixtures. Parking spaces and vehicle turnaround space is available on the site. There will be a dry well installed for roof runoff and a bicycle rack will be located at the end of the driveway. As for greenery, the site has a lawn, shrubs, trees and a garden. Brick pavers, timbers and native stones, similar to the front building, will be used. The project meets several of the goals of the LCP. There would be no adverse effects as a result of the project.

**Public Comment:** None. There were 4 letters in support of the application.

**Board Discussion:** The Board questioned Mr. DeSouza. He explained the septic expansion plan that will add another tank to service the new unit. The Board asked how he would minimize disruption on the site during the construction phase, to which he answered that he would do the work when the other unit owners, who did not occupy their units year-round, were away in the off-season. After some discussion, the Board imposed the following conditions:

- The applicant shall provide a marked-up plan for erosion control for the review and approval of Town staff;
- All trash and recycling receptacles, containers, or cans shall be placed in, and fully obscured by, an enclosure;
- All exterior lighting shall comply with the Zoning By-Laws and be dark sky compliant;

- The applicant shall provide adequate bicycle racks and they shall be of the “post and ring” or “inverted u” type. The applicant shall submit specifications and plans showing the location of rack(s) for review and approval by Town staff; and
- The applicant shall provide a marked-up plan showing the location of the propane tank at the back of the property for review and approval by Town staff.

*There was a motion by Brandon Quesnell to grant a Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1), of the Zoning By-Laws to add a dwelling unit on the site, resulting in three or more dwelling units at 22 Conwell Street, UD with the five conditions as discussed. Ross Zachs seconded. VOTE: 5-0-0.* Gloria McPherson will write the decision.

**PLN 20-24**

Application by **Christine Barker**, on behalf of **Bradford Rose**, seeking a Site Plan Review by Special Permit pursuant to Article 4, Section 4015, Site Plan Review by Special Permit, a. (1) & (2), of the Zoning By-Laws for the development of 31 hotel rooms and a restaurant/bar, consisting of 2,000 sq. ft. of new commercial area and the development of an aggregate of residential units that will result in four condominium units on the property located at **227R Commercial Street.**

**PLN 20-25**

Application by **Christine Barker**, on behalf of **Bradford Rose**, seeking a Special Permit pursuant to Article 2, Sections 2314, Special Permit Uses, 2440, Permitted Principal Uses, A2, Multi-Family Dwelling, 2560, Dimensional Schedule, and Article 4, Section 4180, Inclusionary and Incentive Zoning By-Law, of the Zoning By-Laws for the development of 31 hotel rooms and 4 condominium units in the Harborfront Overlay District and an increase in the allowable lot coverage on the property located at **227R Commercial Street.**

Jason Potter, Brandon Quesnell, Paul Graves, John Peters-Campbell, and Ross Zachs sat on both cases.

**Presentation:** Christine Barker, Ginny Binder, Jan historic preservationist, Jeffrey Bouchard, an architect with Machado Silvetti, Raul Lizardi-Rivera, a civil engineer with Cape & Islands Engineering, Guy Busa, a transportation engineer with Howard, Stein, Hudson, and Attorney Jean Kampas, representing the applicant, appeared to present the application. Ms. Barker introduced the project and said that it will contribute to economic development in Town by supporting the expansion of the tourist industry in the off-season, providing more hotel rooms, affordable housing, a meeting space and public pier amenity, all in a sustainable and ecologically sensitive manner.

Mr. Bouchard reviewed a PowerPoint presentation describing the proposal, which was inspired by historical sources, and its design and architectural features. The building is in the Velocity Zone and the Harborfront Overlay District, at a distance from Commercial Street via an alleyway. There will be a green roof and tower gardens located between two gables. The plans are to renovate and upgrade the eastern right of way to accommodate vehicles, emergency and otherwise. A restaurant/bar and a meeting room will be located on the first floor. The intent was to develop the property as a public space and amenity in addition to the hotel and condominium elements. The roof will be metal, the siding covered with cedar shingles and balconies will be available for all rooms. There will be 14 parking spaces and bike racks under the

building and ADA-compliant ramps for the pier area. All mechanical components will be placed on the roof and all the exterior lighting will be dark sky compliant.

Mr. Busa reviewed the transportation-type access issues and how the hotel will manage its own and the residence parking situation in regard to their particular vehicular movement needs. He reviewed the on-site parking plan, which will consist of 2 spaces for a hotel shuttle services, 8 hotel spaces, and 4 spaces for the condominium units. No spaces will be available for the restaurant/bar or for general operation management. An off-site parking location will be provided for all other parking needs. He reviewed the projected vehicular movement and daily site activity. Delivery and trash services will be provided from Commercial Street, which is typical for many other restaurants and businesses in the neighborhood. He reviewed the trip generation numbers for the uses on the site and the trip generation numbers for peak activity times during the day. He said that according to his calculations, cars could get in and get out without interfering with other parking spaces and would be able to turn around in the lower deck parking area.

Mr. Lizardi-Rivera reviewed the existing conditions and the demolition plan. The existing building will be raised and there are proposed erosion and sedimentation controls on the plan, as well as a protocol for the contractor to follow, or modify as needed, to properly manage the site. There will be a construction pad at the head of the alleyway to keep mud and sediments stuck to large equipment from being deposited on Commercial Street. He said that a limit of work will surround the entire property. He said the intention is to keep the limit of work outside the building to be demolished and outside the highwater level in order not to obstruct the public access along the beach. He reviewed the conditions for proposed grading, drainage, and control of runoff produced on the site, all pursuant to Massachusetts Dept. of Environmental Protection stormwater management standards. He said that a proposed subsurface leaching system would be installed beneath the building, avoiding all the pilings that will be supporting the main structure. In addition, a small trench drain will be installed in the alleyway, which will catch water from the carport and direct it to a subsurface drainage system.

Attorney Kampas said that the applicant as part of the request for Site Plan Review by Special Permit was requesting several waivers. The first waiver is from the traffic impact assessment, as there will not be a significant increase in the number of vehicles in the alleyway, which will be improved during the project, she argued that an assessment was not needed. The Board briefly questioned Mr. Busa about the impact on both vehicle and pedestrian traffic on Commercial Street. Attorney Kampas then argued that the information presented this evening along with the submitted application materials constituted a development impact statement. Nonetheless, the Board requested the submission of a concise development impact statement in writing. She stated that the project was in keeping with the goals and objectives of the Local Comprehensive Plan and with both the residential and commercial design standards as outlined in the Zoning By-Laws. Pursuant to the additional review criteria in Article 4, s. 4035, Review Criteria, one of which is that public amenities and abutting properties be protected through the mitigation of any detrimental impacts on any proposed use, she argued that the site itself was a public detriment and that more public amenities, including the pier and the decking, were being created. A further mitigation would be through the vehicular traffic management plan and

various fire safety measures that the Fire Dept. has recommended, and the design described by Mr. Burchard minimizing the impact of the added height and scale of the structure. Another criterion is the protection of unique, natural, scenic or historic features of the site. These are lacking under the existing situations, however the project will enhance the natural features on the site by upgrading stormwater management features, improving its coastal resiliency by virtue of the structure being elevated. As to historic features of the site, the design of the structure was inspired by historic industrial waterfront buildings. The project will be reviewed by the Historic District Commission and subject to its approval. The next criterion is the safety and convenience of vehicular and pedestrian movement within the site and in relation to rights-of-way and properties in proximity to the site. She said that according to case law, and as the easement owner, Ms. Barker would have the legal right to improve and repair the way. She had a letter from Ms. Barker's transactional and title attorney describing her rights to the easement. The safety and convenience of vehicular and pedestrian traffic movement within the site is being protected and improved by the intent to comply with several conditions requested by the Fire Dept., and imposed by the Zoning Board of Appeals, including that there be no parking on the right-of-way, that thoughtful traffic mitigation measures have been proposed to minimize the vehicular traffic and pedestrian safety to, and within the site, and the fact that there will be ADA accessible measures on the site, including ramps. The next criterion is the protection of public health and safety within and adjacent to flood hazard areas. The structure is being elevated 2' above the design flood elevation standard, which improves coastal resiliency and benefits the Town's national flood insurance community rating system. The last criterion is that the project is consistent with the illumination standards of the Zoning By-Laws, which it will be. She concluded that the social, economic and other benefits to the Town or neighborhood outweigh any adverse effects such as hazard, congestion or environmental degradation.

She then reviewed additional Special Permit relief requested, such as Article 4, s. 4120, Density Schedule, Commercial Accommodations, to increase the allowable hotel units from 12 to 31, a public benefit in terms of an increase in rooms' taxes, mitigating a lack of hotel rooms and meeting spaces in Town, giving a boost to the economy in the off-season and helping to minimize traffic to the site. Relief from Article 4, s. 4150, Green Area, 30% is required, which is a challenge in the TCC Zoning District. The ground-level garden area on the north side of the building, as well as natural sand areas have a total of 11.4% green area, however the structure will have rooftop and tower gardens, which would bring the green area up to 26.2%. She argued that these can be included in the green area calculation, according to the definition in the Zoning By-Laws. The pier and deck area are being provided as public amenities and as the space under the decking will remain in its natural state, it can be included in the green area calculation, which would raise it to 48.1%. As to Article 2, s. 2314, Special Permit Uses, the project meets the requirement that residential uses should occupy no more than 20% of the gross floor area of any structure, satisfy the other requirements of the section in that the uses on the site will interrelate productively with, and help promote, other waterfront activities, make efficient use of harbor frontage in relation to jobs supported or taxes contributed or other public benefits conferred, improve opportunities for visual and pedestrian access to the waterfront, and impact harbor water quality in a positive manner through improving stormwater drainage management. Pursuant to s. 2440, Permitted Principal Uses, A2, Multi-Family Dwelling, the applicant is requesting relief to provide 4 condominium units in the TCC

Zoning District. As to lot coverage pursuant to s. 2560, Dimensional Schedule, the requirement for maximum lot coverage is 60%, unless waived by the Board by Special Permit in the TCC Zoning District. The applicant is requesting relief, as this property has 81% lot coverage, which is due to the additional hotel units, to support the economy and generate taxes for the Town, and the decking and the pier, the latter being amenities for the public. If the two public amenities were removed, the lot coverage would be only 63%. Finally, pursuant to Article 4, s. 4180, Inclusionary and Incentive Zoning By-Law, the applicant intends to provide a payment in lieu instead of an affordable unit. She is also exploring the idea of entering into a partnership with the Provincetown Housing Authority to provide affordable or employee dwelling units off-site.

**Board Discussion:** The Board questioned the team and requested a site plan for the easement, as there are no specifics about it on the existing site plan or details about proposed improvements. The Board was concerned about the impact of both vehicular and pedestrian traffic on Commercial Street and was of the opinion that a traffic impact assessment needed to be submitted. There was a question from the Board about proposed signs. Ms. Binder said that signs have not yet been developed, although when they are, they will conform to the sign by-law. She said that a better sense of the way-finding signs and the sign for the hotel could be submitted as part of the traffic impact assessment. The Board discussed the project, the design of the structure, including the height and volume and the need for the tower structure. Ms. Barker explained the reasoning that went into the design of the building. The Board discussed the building design. Also discussed were the potential traffic issues and the other relief requested.

**Public Comment:** Mr. Potter said that there were 39 letters in support of the application and 1 in soft opposition. He summarized the major points contained in the letters, which each Board member has reviewed. Attorney Ilana Quirk, representing Scott Ravelson, spoke of her client's concern about access issues and the width of the alleyway, issues of fire safety, the lack of frontage for the site, and the lack of a development impact statement. She urged the Board to condition the project by requiring that a barge be used for construction purposes and require that no construction equipment or materials be allowed to access the site from Commercial Street to lessen the potential for a disruption of traffic. Patrick Patrick argued that the site plan was incorrect in that the boundaries shown were incorrect, making the application faulty and that it should be denied until a more accurate site plan was submitted to the Board and access issues resolved. Scott Ravelson had concerns and issues that needed to be worked out, but supported the project. Emily White spoke in support of the application. The Board summarized the request for additional material to be submitted by the applicant, including a site plan for the easement, a traffic impact assessment, a revised list of waivers, given that some of the waivers may change based upon ZBA Special Permit decisions, the location of the proposed bike racks on the site plan. The Board also suggested that Ms. Barker work with abutters about their issues in an effort to come to an agreement, providing more detail regarding ADA access issues. The Board continued the cases to the January 9, 2020 at 6:30 P.M. ***There was a motion by Brandon Quesnell to continue PLN 20-24 and PLN 20-25 to the January 9, 2020 Public Hearing at 6:30 P.M. Paul Graves seconded. VOTE: 5-0-0.***

#### **PLN 20-27**

Application by **Tom Thompson**, on behalf of **Luis and Vanessa Ruelas**, seeking Administrative Site Plan Review pursuant to Article 4, Section 4010, Administrative Site Plan

Review, of the Zoning By-Laws to extend a deck and construct an addition on the south elevation and to extend a porch on the north elevation of the structure located at **419 Commercial Street**. Jason Potter, Brandon Quesnell, Paul Graves, John Peters-Campbell, and Ross Zachs sat on the case.

**Presentation:** Tom Thompson appeared to present the application. He indicated that the extension of the porch on the north elevation has been removed from the application. He reviewed the renovation project, which involves constructing a small addition on the south elevation and the decks would be reconstructed in the same-sized footprints forward of the new addition. A shed will be removed and a new accessory shed will be erected at a distance of 12' from the main structure. The free-standing deck on the south elevation will not be involved in this project.

**Public Comment:** None.

**Board Discussion:** Mr. Potter commented that the narrative description was lacking in detail, including scope of work and sequencing, and that Mr. Thompson should rectify that with his next application to the Board. The Board questioned Mr. Thompson and requested planting and lighting plans and cut sheets for any exterior lighting fixtures to be submitted to Town staff for approval. The applicant will have to re-apply for the roof deck at another meeting.

*There was a motion by Brandon Quesnell to approve with the conditions that a planting plan and a lighting plan, including cut sheets for exterior light fixtures and the approval does not include the front porch or the rear free-standing or the roof deck, Ross Zachs seconded.*

**VOTE: 5-0-0.**

### **3. Work Session:**

a) Consideration of Chapter 91 license for the property located at 111 Commercial Street. Mr. Potter read a notification that was sent by Anne Howard, the Building Commissioner, to the Board.

b) Approvals Not Required:

#### **PLN 20-22**

Application by **Eliot Parkhurst, Esq.**, on behalf of **Five Star Pet Services, LLC**, for endorsement of a plan believed not to require approval (ANR) to combine one parcel at **79 Shank Painter Road (Map 7-3, Parcel 23-D)** and one parcel at **79R Shank Painter Road (Map 7-4, Parcel 77-A)** to form one lot with the required frontage on a public way and in accordance with the Provincetown Zoning By-Laws and with M.G.L. c. 41, s. 81P.

The Board briefly discussed ANRs.

*There was a motion by John Peters-Campbell to endorse a plan believed not to require approval (ANR) to combine one parcel at 79 Shank Painter Road (Map 7-3, Parcel 23-D) and one parcel at 79R Shank Painter Road (Map 7-4, Parcel 77-A) to form one lot with the required frontage on a public way and in accordance with the Provincetown Zoning By-Laws and with M.G.L. c. 41, s. 81P. Paul Graves seconded. VOTE: 4-0-1 (Brandon Quesnell abstaining).*

c) **Minutes of April 23, August 27 and October 22, 2015, January 14, March 24, April 28, June 9, 2016 and October 7, October 10 and November 14, 2019.**

October 7, 2019: *There was a motion by Jason Potter to approve the minutes of October 7, 2019 as written. Ross Zachs seconded. VOTE: 5-0-0.*

October 10, 2019: *There was a motion by Jason Potter to approve the minutes of October 10, 2019 as amended. Ross Zachs seconded. VOTE: 5-0-0.*

November 14, 2019: *There was a motion by Jason Potter to approve the minutes of November 14, 2019 as written. Ross Zachs seconded. VOTE: 5-0-0.*

d) **Any other business that may properly come before the Board:** None.

*There was a motion by Ross Zachs to adjourn the Planning Board meeting at 10:20 P.M. Jeffrey Mulliken seconded. VOTE: Unanimous.*

Respectfully submitted,

Ellen C. Battaglini

Approved by \_\_\_\_\_ on \_\_\_\_\_, 2020  
Jason Potter, Chair